

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of Rules and Regulations	)	
Implementing the Telephone Consumer	)	CG Docket No. 02-278
Protection Act of 1991	)	CG Docket No. 05-338
_____	)	

**COMMENTS OF GM SIGN, INC. ON PETITIONS CONCERNING THE  
COMMISSION’S RULE ON OPT-OUT NOTICES ON FAX ADVERTISEMENTS**

We are a small, family owned business. We manufacture large signs for commercial use. Our business involves a bidding process to secure contracts. It is standard practice to submit bids by facsimile and that is often the only option. As such, our business is greatly affected by anything that ties up our fax machine. We first sought out counsel to try and stop the interference with our business posed by facsimile advertisements after the interruption from an unwanted facsimile advertisement caused us to miss the deadline for a work bid.

Since our attorneys and others have begun prosecuting actions under the TCPA, and especially since the FCC promulgated its current rules in 2006, the volume of unwanted facsimile advertisements has decreased markedly and it has become less of an interference with our business. We understand that now, however, the junk faxers are lobbying the Commission in an effort to relax the regulations concerning when a fax advertisement needs an opt-out notice. We write to urge the Commission not to do so.

At issue is whether a faxer can claim “express invitation or permission” as a safe harbor even if the fax sent failed to comply with the Commission’s clear opt out notice requirements. To allow this would condone ignoring the regulations and would render them toothless. We have dealt with numerous other persons and entities in our 38 years in business. It is not possible for us to keep track of everyone who we ever asked to send us a fax about a job or a proposal.

To allow any such person or entity to send us fax advertisements from now until the end of time without offering an opt-out notice on their faxes is not fair. This is particularly true in our experience, since when there is no opt out notice we have found that merely calling a general contact number of the advertiser often is unproductive since a general receptionist often does not know what to do with a do-not-fax request.

Further, it is our experience from participation in litigation under the TCPA that the first thing a fax advertiser lies about is whether it had consent from "some people." As things currently stand such a vague claim would not impact the course of the litigation: either the offender complied with the Commission's clear opt-out notice requirement or it did not, and vague, wishful claims of hypothetical "consent" do not stand in the way. If the sender is acting responsibly, it will both secure express consent and will comply with the Commission's opt-out notice regulations. If it fails to do the latter, it is usually a good indicator that it did not do the former, either.

Finally, we note that we were not always familiar with the TCPA; we just wanted the unwanted advertisements to stop. We believe that most junk fax recipients are not aware that they have the right to opt out of receiving future facsimile advertisements and that it is unlawful for the sender not to comply with such a request. We have never had anyone tell us this when they ask to fax us something. Requiring the opt out notice even in cases of true consent to receive a fax ensures that recipients know what their rights are and that getting one fax they want does not automatically sentence them to a lifetime of fax advertisements they don't.

Respectfully submitted,



George Matiassek  
President of G.M. Sign